

# INDEX

## Record from the United States District Court for the Southern District of Mississippi, Jackson Division :

	Page
Caption .....	3
Stipulation as to printing of record .....	4
Indictment .....	5
Motion to dismiss .....	7
Order dismissing indictment .....	8
Clerk's certificate .....	9
Proceedings in the U. S. C. A. for the Fifth Circuit .....	11
Argument and submission .....	11
Opinion, Borah, J. (See Record No. 51, page 17.)	
Dissenting opinion, Rives, J. (See Record No. 51, page 22.)	
Judgment .....	11
Clerk's certificate .....	11
Order granting certiorari .....	13



NO. \_\_\_\_\_

---

**IN THE UNITED STATES  
COURT OF APPEALS  
FOR THE FIFTH CIRCUIT  
NEW ORLEANS LOUISIANA**

---

**UNITED STATES OF AMERICA, Appellant**

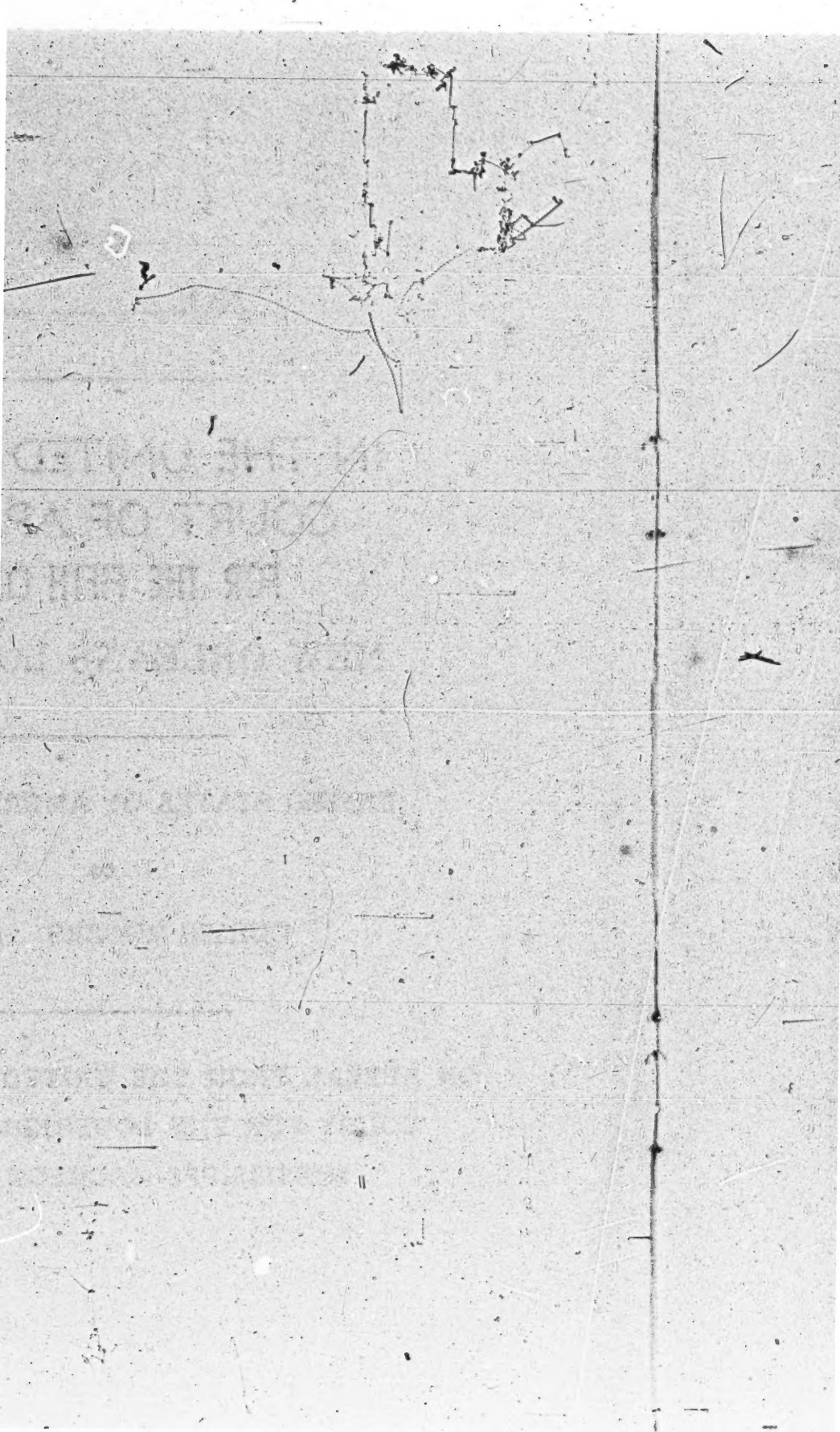
**vs**

**CURTIS ROGERS, Appellee**

---

**ON APPEAL FROM THE UNITED STATES DISTRICT  
COURT FOR THE SOUTHERN DISTRICT OF  
MISSISSIPPI—JACKSON DIVISION**





**MEMORANDA FOR THE CLERK**  
**IN THE UNITED STATES**  
**DISTRICT COURT**  
**FOR THE SOUTHERN DISTRICT OF MISSISSIPPI**

---

**No. 2168—CRIMINAL**

---

**UNITED STATES OF AMERICA**

**CURTIS ROGERS**

---

**HONORABLE JOSEPH E. BROWN, United States**  
**Attorney, Federal Building, Jackson, Mis-**  
**issippi,**

**ATTORNEY FOR APPELLANT**

**HONORABLE BIDWELL ADAM, Attorney at Law,**  
**Gulfport, Mississippi,**

**HONORABLE ALBERT SIDNEY JOHNSTON, JR.**  
**Attorney at Law, Biloxi, Mississippi,**  
**ATTORNEYS FOR APPELLEE**

**IN THE UNITED STATES  
COURT OF APPEALS  
FOR THE FIFTH CIRCUIT**

**No. 14090**

**UNITED STATES OF AMERICA, Appellant**

**v.**

**CURTIS ROGERS, Appellee**

**STIPULATION AS TO PRINTING OF RECORD**

Subject to the approval of the court, it is hereby stipulated and agreed by and between counsel for the parties that only the following portions of the record on appeal received from the Clerk of the District Court need be printed, supplemented by this agreement:

1. The indictment.
2. The motion to dismiss, without exhibits.
3. It is agreed that the typewritten record certified by the Clerk of the District Court constitutes the record on appeal and shall be considered by the court to the same extent as if it were printed; and that any party may print, as a part of or in connection with its or his brief, any portion of said typewritten record or may comment upon or otherwise use said typewritten record to the same extent as if it were printed.
4. This stipulation.
5. The opinion of the District Court sustaining the motion to dismiss, the order of the District Court dismissing the indictment and the notice of appeal and filing thereof are identical with the same items in cause No. 14087 which portions of the record in said cause are adopted as a part of the record in this case.

**/s/ Joseph E. Brown  
United States Attorney  
Southern District of Mississippi  
Attorney for Appellant**

**/s/ Albert Sidney Johnston, Jr.  
Attorney for Appellee**



**IN THE UNITED STATES  
DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI**

---

**No. 2168—CRIMINAL**

---

**UNITED STATES OF AMERICA**

**v**

**CURTIS ROGERS**

---

**I N D I C T M E N T**

**(FILED JULY 19, 1951)**

**THE GRAND JURY CHARGES:**

1. That on or about the 9th day of April, 1951, at Jackson, and within the Southern District of Mississippi,

**CURTIS ROGERS,**

the defendant herein, having duly taken an oath before a competent tribunal, to wit: a subcommittee of the Senate Committee on Expenditures in the Executive Departments, known as the Investigations Subcommittee, a duly created and authorized subcommittee of the United States Senate conducting official hearings in the Southern District of Mississippi, and inquiring in a matter then and there pending before the said subcommittee in which a law of the United States authorizes that an oath be administered, that he would testify truly, did unlawfully, knowingly and willfully, and contrary to said oath, state a material matter which he did not believe to be true, that is to say:

2. That at the time and place aforesaid, the said Senate Subcommittee inquiring as aforesaid was conducting a study and investigation of whether applicants for appointments

to offices and places under the government of the United States had been, and were being solicited and required by numerous persons within the State of Mississippi to make political contributions and donations as a condition precedent to receiving such appointments, and as a consideration in return for promises to use their support and influence in obtaining said offices and places for applicants seeking appointment thereto; and to determine whether the laws of the United States had been violated in connection with such activities, the identity of any such persons engaged therein, and the extent to which such improper and corrupt activities affected and influenced the operation of Agencies and Departments of the United States.

3. That at the time and place aforesaid, the defendant  
**CURTIS ROGERS,**

duly appearing as a witness before the Senate Subcommittee and then and there being under oath as aforesaid, testified falsely before said Subcommittee with respect to the aforesaid material matter as follows:

**SENATOR HOEY:** There has been some testimony by different witnesses that you mentioned that you did not want checks, that you wanted the money in cash. What can you tell us about that?

**MR. ROGERS:** Senator, I would have been glad to get anybody that wanted to give a check,—I would take it if it was legitimate. I never made any statement like that in my life.

4. That the aforesaid testimony of the defendant, as he then and there well knew and believed, was untrue in that he did mention to various persons that he did not want checks and that he wanted the money in cash. (Sec. 1621, Title 18, U. S. C.)

## **COUNT II**

### **THE GRAND JURY FURTHER CHARGES:**

1. That at the time and place aforesaid, as is more fully set forth in Paragraph 1 and 2 of the first Count, the



allegations of which are hereby incorporated herein, the defendant

**CURTIS ROGERS,**

duly appearing as a witness before the said Senate Subcommittee and being under oath as aforesaid, testified falsely before the Senate Subcommittee with respect to the aforesaid material matter as follows:

**SENATOR HOEY:** Did you suggest at any time to any applicants how much money they might contribute?

**MR. ROGERS:** No, Sir.

2. That the aforesaid testimony of the defendant, as he then and there well knew and believe, was untrue in that he did suggest to applicants how much they might contribute. (Sec. 1621, Title 18, U. S. C.)

**A TRUE BILL**

/s/ D. F. McCormick  
Foreman

/s/ Joseph E. Brown  
**JOSEPH E. BROWN,**  
United States Attorney.

/s/ Ben Brooks  
**BEN BROOKS,**  
Special Assistant to the  
Attorney General

**(TITLE OMITTED)**

**MOTION TO DISMISS INDICTMENT**

**(FILED SEPTEMBER 5, 1961)**

The defendant, Curtis Rogers, moves that the indictment and each count be dismissed on the following grounds:

1. The indictment and each count thereof does not state facts sufficient to constitute an offense against the United States.

2. The Count 1 of said indictment is indefinite, vague and uncertain, in that said indictment in said count does

not allege and charge or name the person or persons that the defendant mentioned he wanted the money in cash, and that he did not want checks.

3. The Count 2 of said indictment is indefinite, vague and uncertain, in that said indictment in said Count 2 does not allege and charge or name the applicants that the defendant suggested how much money they might contribute, and the amount to be contributed.

4. The Subcommittee of the United States Senate, known as the Investigations Sub-committee, which subpoenaed and examined this defendant, was without authority in law to administer an oath to this defendant.

5. The said indictment contains extraneous, inflammatory and prejudicial matter and allegations against this defendant, in addition to the attempt to charge perjury.

Name: /s/ Bidwell Adam

Address: Gulfport, Miss.

Name: /s/ Albert Sidney Johnson

Address: Biloxi, Miss.

(TITLE OMITTED)

## ORDER

(FILED FEBRUARY 11, 1952)

This cause this day came on for hearing on the motion to dismiss in the above numbered and entitled cause, and the Court having heard and considered same fully, it is considered and so

Ordered,

that the motion to dismiss in the above numbered and entitled cause be and the same hereby is sustained.

ORDERED, this the 6th day of February, 1952.

/s/ Allen Cox

UNITED STATES DISTRICT JUDGE

ENTERED: COB 5—P 976

**C E R T I F I C A T E**

I, B. L. TODD, JR., CLERK of the United States District Court for the Southern District of Mississippi, do hereby certify that the foregoing pages contain a true and correct transcript of the record in the case of UNITED STATES OF AMERICA V CURTIS ROGERS, CRIMINAL ACTION NO. 2168, now on appeal to the Court of Appeals for the Fifth Circuit, New Orleans, Louisiana, as the same now remains of record in my office at Jackson, Mississippi.

WITNESS my hand and seal of this office, this the 29th day of April, 1952.

/s/ B. L. Todd, Jr.

B. L. TODD, JR., CLERK

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF MISSISSIPPI



That thereafter the following proceedings were had in said cause in the United States Court of Appeals for the Fifth Circuit, viz:

**Argument and Submission.**

Extract from the Minutes of December 8, 1952.

**UNITED STATES OF AMERICA,**

**No. 14090**

**versus**

**CURTIS ROGERS**

On this day this cause was called, and after argument by Ben Brooks, Esq., Special Assistant to the Attorney General, for appellant, and Ben F. Cameron, Esq., for appellee, was submitted to the Court.

**Judgment.**

Extract from the Minutes of April 10, 1953.

**UNITED STATES OF AMERICA,**

**No. 14090**

**versus**

**CURTIS ROGERS.**

This cause came on to be heard on the transcript of the record from the United States District Court for the Southern District of Mississippi, and was argued by counsel;

On consideration whereof, It is now here ordered and adjudged by this Court that the judgment of the said District Court in this cause be, and the same is hereby, affirmed.

"Rives, Circuit Judge, dissents."

**Clerk's Certificate.**

**UNITED STATES OF AMERICA.**

**UNITED STATES COURT OF APPEALS,**

**FIFTH CIRCUIT.**

I, Oakley F. Dodd, Clerk of the United States Court of Appeals for the Fifth Circuit, do hereby certify that the pages numbered from 10 to 24 next preceding this certificate contain full, true and complete copies of the pleadings, record entries and proceedings, including the opinion of the United States Court of Appeals for the Fifth Circuit, in a certain cause in said court, numbered 14090, wherein UNITED STATES OF AMERICA is appellant, and CURTIS ROGERS is appellee, as full, true and complete as the originals of the same now remain in my office.

I further certify that the pages of the printed record numbered from 1 to 9, are identical with the printed record upon which said cause was heard and decided in the said Court of Appeals.

In testimony whereof, I hereunto subscribe my name and affix the seal of the said United States Court of Appeals at my office in the City of New Orleans, Louisiana, in the Fifth Circuit, this 21st day of April, A. D., 1953.

/s/ OAKLEY F. DODD  
Clerk, U. S. Court of Appeals,  
Fifth Circuit.

SEAL

Supreme Court of the United States

No. 768, October Term, 1952

UNITED STATES OF AMERICA, PETITIONER

v.

CURTIS ROBERTS

*Order allowing certiorari*

Filed June 15, 1953

The petition herein for a writ of certiorari to the United States Court of Appeals for the Fifth Circuit is granted, and the case is transferred to the summary docket.

And it is further ordered that the duly certified copy of the transcript of the proceedings below which accompanied the petition shall be treated as though filed in response to such writ.